THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14168 of 2006

Dated: 07-08-2006

Between:

Syed Dastagir Pasha.

..... PETITIONER

AND

The Chief Executive Officer, A.P. State Wakf Boad,
Hyderabad and two others.

.....RESPONDENTS

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ORDER:

The petitioner is a resident of Karwan area in Hyderabad. He is engaged in business as vegetable commission agent. He alleges that on a complaint made by the third respondent, who is statedly enemical to

him (petitioner), the first respondent addressed a letter/proceedings dated 08-05-2006 to the second respondent alleging that the petitioner has encroached upon the property of Toli Masjid, Karwan, and the second respondent was requested to take action against the petitioner. The petitioner contends that he is not tenant of Toli Masjid nor he is making any construction as alleged in the impugned letter/proceedings. Therefore, he filed the instant writ petition seeking invalidation of said letter/proceedings.

At the stage of admission itself, the Chief Executive Officer, Andhra Pradesh State Wakf Board, first respondent herein, has filed a counter-affidavit. A reading of the counter-affidavit would show that in altogether a new case is projected by the Chief Executive Officer. Instead of summing up the contents of the counter-affidavit, it is better to extract the relevant averments therein, which read as follows.

> It would be relevant to submit that the Director, Archeological and Museums, Government of Andhra Pradesh objected for allotment of house sites on lease by the A.P. State Wakf Board aggrieved by which the petitioner and other 98 persons filed W.P.No.19371/98 and upon dismissal of the writ petition preferred Writ Appeal No.1382 of 1999, the petitioner was the appellant No.7 therein and the Division Bench of this Hon'ble Court while dismissing the writ appeal observed that keeping in view the poverty of the appellants, the Wakf Board shall provide land to the appellants for construction of houses out of the vast and unutilized properties and in obedience of the orders of this Hon'ble Court all the 99 tenants of Toli Mosque were allotted house sites at Dargah Hazrath Mir Mahmood Sahed in Sy. No.335/2 and 336 of Attapur Village, Rajendernagar Mandal, R.R. District. It would not be out of place to submit that the mother of the petitioner is a tenant of Tali Mosque house bearing municipal No.13-6-831/A/52 and the petitioner is residing in the said house along with his mother and always made attempts to achieve his evil designs and oblique motives. Further I submit that the letter dated 8-5-2006 is issued after verification and approval of the Special Officer the petitioner is not entitled to compel this respondent to withdraw the same.

A bare perusal of the above averments would show that the first respondent addressed the second respondent without first getting his facts proper and therefore, based on such letter, which is quite contrary to the averments made in the sworn writ affidavit before this Court, the petitioner's liberty cannot be impeached. If so advised, it is always open to the Andhra Pradesh State Wakf Board to take necessary action in accordance with the provisions of the Wakf Act, 1995.

The writ petition, with the above brief reasons, is accordingly allowed and the impugned letter/proceedings dated 08-05-2006 are set aside. No costs.

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(**V.V.S.RAO, J**)

7th August, 2006
ghn